

ORDINANCE NO.

1 **AN ORDINANCE GRANTING VARIANCES FROM CERTAIN FLOODPLAIN**
2 **REGULATIONS PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION**
3 **OF THE BOARDWALK TRAIL AT LADY BIRD LAKE IN THE 25 AND 100-**
4 **YEAR FLOODPLAINS; ESTABLISHING CONDITIONS FOR THE**
5 **VARIANCES; AND PROVIDING AN EXPIRATION DATE FOR THE**
6 **VARIANCES.**

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8 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

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10 **PART 1.** This ordinance applies to the construction of the Boardwalk Trail at Lady Bird
11 Lake as described in Site Plan Application No. SPC-2011-0327C.

12 **PART 2.** Council has considered the factors for granting a variance from floodplain
13 regulations prescribed by City Code Section 25-12-3, Building Code Appendix G,
14 Section G105.7 (*Conditions for Issuance*). Council finds that the variances granted by
15 this ordinance are the minimum necessary to afford relief, are based on good and
16 sufficient cause, and failure to grant the variance would result in exceptional hardship.
17 Council further finds that the variances granted in this ordinance will not result in
18 substantial increase in flood heights, additional threats to public safety, extraordinary
19 public expense, create a nuisance, cause fraud on or victimization of the public, or
20 conflict with existing local laws or ordinances.

21 **PART 3.** A variance is granted from:

- 22 (A) the requirement in City Code Section 25-7-61 (*Criteria for Approval of*
23 *Plats, Construction Plans, and Site Plans*) that a site plan not be approved
24 unless the proposed development will not result in additional identifiable
25 adverse flooding on other property;
- 26 (B) the requirement in City Code Section 25-12-3, Building Code, Appendix G,
27 Section G103.4 (*Activities in Riverine Flood Hazard Areas*) that
28 development not be approved unless the proposed development
29 demonstrates that it will not increase design flood elevation that results in
30 additional identifiable adverse flooding on other property;
- 31 (C) the requirement in City Code Section 25-12-3, Building Code, Appendix G,
32 Section G103.5 (*Floodway Encroachment*) that development involving
33 floodway encroachment not be approved unless a Professional Engineer

1 demonstrates that the development will not cause any increase of the level of
2 the design flood; and

- 3 (D) the requirement in City Code Section 25-12-3, Building Code, Appendix G,
4 Section G103.5.1 (*Floodway Revisions*) that no floodplain variance may be
5 considered for a floodway encroachment increasing the level of the design
6 flood until after the applicant has applied for a flood insurance rate map
7 (“FIRM”) revision and has received approval of the revision from the
8 Federal Emergency Management Agency (“FEMA”), to allow Council to
9 consider this variance before the applicant has applied for and received
10 approval of the FIRM revision by FEMA.

11 **PART 4.** The variance granted in this ordinance is effective only if the applicant meets
12 the following conditions:

- 13 (A) The applicant shall submit to FEMA a conditional letter of map revision
14 application for the Boardwalk Trail at Lady Bird Lake (CLOMR), after the
15 application has been reviewed by the City. The applicant shall complete all
16 actions necessary to respond to any review comments by FEMA and to
17 obtain final approval by FEMA.
- 18 (B) The applicant shall submit to FEMA a letter of map revision application for
19 the Boardwalk Trail at Lady Bird Lake (LOMR), after the application has
20 been reviewed by the City. The applicant shall complete all actions
21 necessary to respond to any review comments by FEMA and to obtain final
22 approval by FEMA. The City may not issue a letter of final acceptance of
23 the project until FEMA has issued a letter of acknowledgment of a
24 complete LOMR application.
- 25 (C) The applicant shall submit a certification by a Texas Registered Professional
26 Engineer or Architect certifying that the proposed structure will withstand
27 the flood forces generated by the 100-year flood and that the design and
28 construction is in accord with the latest edition of the American Society of
29 Civil Engineers Manual 24 (*Flood Resistant Design and Construction*)
30 before the City may release the Site Development Permit for the project.

31 **PART 5.** This variance expires if the project for which this variance is granted does not
32 receive a released Site Plan and Building Permit on or before July 9, 2013.

33 **PART 6.** Approval of this variance does not constitute approval of zoning, subdivision,
34 a site plan, a building permit, or any other development permit, and it does not constitute
35 a commitment to any particular land use, intensity of land use, or utility services.

1 Approval of this variance does not constitute a guarantee of flood insurance availability,
2 rates, or requirements.

3 **PART 7.** This ordinance takes effect on _____, 2012.

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5 **PASSED AND APPROVED**

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9 _____, 2012

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10 _____
11 Lee Leffingwell
12 Mayor

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14 **APPROVED:** _____
15 Karen Kennard
16 City Attorney

14 **ATTEST:** _____
15 Shirley A. Gentry
16 City Clerk